

1 AMENDMENT TO HOUSE BILL 1955

2 AMENDMENT NO. _____. Amend House Bill 1955 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Juvenile Court Act of 1987 is amended by
5 changing Sections 2-21, 2-27, 2-29, 3-30, and 4-27 as
6 follows:

7 (705 ILCS 405/2-21) (from Ch. 37, par. 802-21)

8 Sec. 2-21. Findings and adjudication.

9 (1) The court shall state for the record the manner in
10 which the parties received service of process and shall note
11 whether the return or returns of service, postal return
12 receipt or receipts for notice by certified mail, or
13 certificate or certificates of publication have been filed in
14 the court record. The court shall enter any appropriate
15 orders of default against any parent who has been properly
16 served in any manner and fails to appear.

17 No further service of process as defined in Sections 2-15
18 and 2-16 is required in any subsequent proceeding for a
19 parent who was properly served in any manner, except as
20 required by Supreme Court Rule 11.

21 The caseworker shall testify about the diligent search
22 conducted for the parent.

1 After hearing the evidence the court shall determine
2 whether or not the minor is abused, neglected, or dependent.
3 If it finds that the minor is not such a person, the court
4 shall order the petition dismissed and the minor discharged.
5 The court's determination of whether the minor is abused,
6 neglected, or dependent shall be stated in writing with the
7 factual basis supporting that determination.

8 If the court finds that the minor is abused, neglected,
9 or dependent, the court shall then determine and put in
10 writing the factual basis supporting that determination, and
11 specify, to the extent possible, the acts or omissions or
12 both of each parent, guardian, or legal custodian that form
13 the basis of the court's findings. That finding shall appear
14 in the order of the court.

15 If the court finds that the child has been abused,
16 neglected or dependent, the court shall admonish the parents
17 that they must cooperate with the Department of Children and
18 Family Services, comply with the terms of the service plan,
19 and correct the conditions that require the child to be in
20 care, or risk termination of parental rights.

21 If the court determines that a person has inflicted
22 physical or sexual abuse upon a minor, the court shall report
23 that determination to the Department of State Police, which
24 shall include that information in its report to the President
25 of the school board for a school district that requests a
26 criminal background investigation of that person as required
27 under Section 10-21.9 or 34-18.5 of the School Code.

28 (2) If, pursuant to subsection (1) of this Section, the
29 court determines and puts in writing the factual basis
30 supporting the determination that the minor is either abused
31 or neglected or dependent, the court shall then set a time
32 not later than 30 days after the entry of the finding for a
33 dispositional hearing (unless an earlier date is required
34 pursuant to Section 2-13.1) to be conducted under Section

1 2-22 at which hearing the court shall determine whether it is
2 consistent with the health, safety and best interests of the
3 minor and the public that he be made a ward of the court. To
4 assist the court in making this and other determinations at
5 the dispositional hearing, the court may order that an
6 investigation be conducted and a dispositional report be
7 prepared concerning the minor's physical and mental history
8 and condition, family situation and background, economic
9 status, education, occupation, history of delinquency or
10 criminality, personal habits, and any other information that
11 may be helpful to the court. The dispositional hearing may
12 be continued once for a period not to exceed 30 days if the
13 court finds that such continuance is necessary to complete
14 the dispositional report.

15 (3) The time limits of this Section may be waived only
16 by consent of all parties and approval by the court, as
17 determined to be consistent with the health, safety and best
18 interests of the minor.

19 (4) For all cases adjudicated prior to July 1, 1991, for
20 which no dispositional hearing has been held prior to that
21 date, a dispositional hearing under Section 2-22 shall be
22 held within 90 days of July 1, 1991.

23 (5) The court may terminate the parental rights of a
24 parent at the initial dispositional hearing if all of the
25 following conditions are met:

26 (i) the original or amended petition contains a
27 request for termination of parental rights and
28 appointment of a guardian with power to consent to
29 adoption; and

30 (ii) the court has found by a preponderance of
31 evidence, introduced or stipulated to at an adjudicatory
32 hearing, that the child comes under the jurisdiction of
33 the court as an abused, neglected, or dependent minor
34 under Section 2-18; and

1 (iii) the court finds, on the basis of clear and
 2 convincing evidence admitted at the adjudicatory hearing
 3 that the parent is an unfit person under subdivision D of
 4 Section 1 of the Adoption Act; and

5 (iv) the court determines in accordance with the
 6 rules of evidence for dispositional proceedings, that:

7 (A) it is in the best interest of the minor
 8 and public that the child be made a ward of the
 9 court;

10 (A-5) reasonable efforts under subsection
 11 (1-1) of Section 5 of the Children and Family
 12 Services Act are inappropriate or such efforts were
 13 made and were unsuccessful; and

14 (B) termination of parental rights and
 15 appointment of a guardian with power to consent to
 16 adoption is in the best interest of the child
 17 pursuant to Section 2-29.

18 The court may not deny a request for termination of
 19 parental rights and appointment of a guardian with power to
 20 consent to adoption for the sole reason that there is not a
 21 prospective adoptive parent for the minor.

22 (Source: P.A. 89-704, eff. 8-16-97 (changed from 1-1-98 by
 23 P.A. 90-443); 90-27, eff. 1-1-98; 90-28, eff. 1-1-98; 90-443,
 24 eff. 8-16-97; 90-566, eff. 1-2-98; 90-608, eff. 6-30-98.)

25 (705 ILCS 405/2-27) (from Ch. 37, par. 802-27)

26 Sec. 2-27. Placement; legal custody or guardianship.

27 (1) If the court determines and puts in writing the
 28 factual basis supporting the determination of whether the
 29 parents, guardian, or legal custodian of a minor adjudged a
 30 ward of the court are unfit or are unable, for some reason
 31 other than financial circumstances alone, to care for,
 32 protect, train or discipline the minor or are unwilling to do
 33 so, and that the health, safety, and best interest of the

1 minor will be jeopardized if the minor remains in the custody
2 of his or her parents, guardian or custodian, the court may
3 at this hearing and at any later point:

4 (a) place the minor in the custody of a suitable
5 relative or other person as legal custodian or guardian;

6 (a-5) with the approval of the Department of
7 Children and Family Services, place the minor in the
8 subsidized guardianship of a suitable relative or other
9 person as legal guardian; "subsidized guardianship" means
10 a private guardianship arrangement for children for whom
11 the permanency goals of return home and adoption have
12 been ruled out and who meet the qualifications for
13 subsidized guardianship as defined by the Department of
14 Children and Family Services in administrative rules;

15 (b) place the minor under the guardianship of a
16 probation officer;

17 (c) commit the minor to an agency for care or
18 placement, except an institution under the authority of
19 the Department of Corrections or of the Department of
20 Children and Family Services;

21 (d) commit the minor to the Department of Children
22 and Family Services for care and service; however, a
23 minor charged with a criminal offense under the Criminal
24 Code of 1961 or adjudicated delinquent shall not be
25 placed in the custody of or committed to the Department
26 of Children and Family Services by any court, except a
27 minor less than 13 years of age and committed to the
28 Department of Children and Family Services under Section
29 5-710 of this Act. The Department shall be given due
30 notice of the pendency of the action and the Guardianship
31 Administrator of the Department of Children and Family
32 Services shall be appointed guardian of the person of the
33 minor. Whenever the Department seeks to discharge a minor
34 from its care and service, the Guardianship Administrator

1 shall petition the court for an order terminating
2 guardianship. The Guardianship Administrator may
3 designate one or more other officers of the Department,
4 appointed as Department officers by administrative order
5 of the Department Director, authorized to affix the
6 signature of the Guardianship Administrator to documents
7 affecting the guardian-ward relationship of children for
8 whom he or she has been appointed guardian at such times
9 as he or she is unable to perform the duties of his or
10 her office. The signature authorization shall include but
11 not be limited to matters of consent of marriage,
12 enlistment in the armed forces, legal proceedings,
13 adoption, major medical and surgical treatment and
14 application for driver's license. Signature
15 authorizations made pursuant to the provisions of this
16 paragraph shall be filed with the Secretary of State and
17 the Secretary of State shall provide upon payment of the
18 customary fee, certified copies of the authorization to
19 any court or individual who requests a copy.

20 (1.5) In making a determination under this Section, the
21 court shall also consider whether, based on health, safety,
22 and the best interests of the minor,

23 (a) appropriate services aimed at family
24 preservation and family reunification have been
25 unsuccessful in rectifying the conditions that have led
26 to a finding of unfitness or inability to care for,
27 protect, train, or discipline the minor, or

28 (b) no family preservation or family reunification
29 services would be appropriate,

30 and if the petition or amended petition contained an
31 allegation that the parent is an unfit person as defined in
32 subdivision (D) of Section 1 of the Adoption Act, and the
33 order of adjudication recites that parental unfitness was
34 established by clear and convincing evidence, the court

1 shall, when appropriate and in the best interest of the
2 minor, enter an order terminating parental rights and
3 appointing a guardian with power to consent to adoption in
4 accordance with Section 2-29. The court may not deny a
5 request for termination of parental rights and appointment of
6 a guardian with power to consent to adoption for the sole
7 reason that there is not a prospective adoptive parent for
8 the minor.

9 When making a placement, the court, wherever possible,
10 shall require the Department of Children and Family Services
11 to select a person holding the same religious belief as that
12 of the minor or a private agency controlled by persons of
13 like religious faith of the minor and shall require the
14 Department to otherwise comply with Section 7 of the Children
15 and Family Services Act in placing the child. In addition,
16 whenever alternative plans for placement are available, the
17 court shall ascertain and consider, to the extent appropriate
18 in the particular case, the views and preferences of the
19 minor.

20 (2) When a minor is placed with a suitable relative or
21 other person pursuant to item (a) of subsection (1), the
22 court shall appoint him or her the legal custodian or
23 guardian of the person of the minor. When a minor is
24 committed to any agency, the court shall appoint the proper
25 officer or representative thereof as legal custodian or
26 guardian of the person of the minor. Legal custodians and
27 guardians of the person of the minor have the respective
28 rights and duties set forth in subsection (9) of Section 1-3
29 except as otherwise provided by order of court; but no
30 guardian of the person may consent to adoption of the minor
31 unless that authority is conferred upon him or her in
32 accordance with Section 2-29. An agency whose representative
33 is appointed guardian of the person or legal custodian of the
34 minor may place the minor in any child care facility, but the

1 facility must be licensed under the Child Care Act of 1969 or
2 have been approved by the Department of Children and Family
3 Services as meeting the standards established for such
4 licensing. No agency may place a minor adjudicated under
5 Sections 2-3 or 2-4 in a child care facility unless the
6 placement is in compliance with the rules and regulations for
7 placement under this Section promulgated by the Department of
8 Children and Family Services under Section 5 of the Children
9 and Family Services Act. Like authority and restrictions
10 shall be conferred by the court upon any probation officer
11 who has been appointed guardian of the person of a minor.

12 (3) No placement by any probation officer or agency
13 whose representative is appointed guardian of the person or
14 legal custodian of a minor may be made in any out of State
15 child care facility unless it complies with the Interstate
16 Compact on the Placement of Children. Placement with a
17 parent, however, is not subject to that Interstate Compact.

18 (4) The clerk of the court shall issue to the legal
19 custodian or guardian of the person a certified copy of the
20 order of court, as proof of his authority. No other process
21 is necessary as authority for the keeping of the minor.

22 (5) Custody or guardianship granted under this Section
23 continues until the court otherwise directs, but not after
24 the minor reaches the age of 19 years except as set forth in
25 Section 2-31.

26 (6) (Blank).

27 (Source: P.A. 90-27, eff. 1-1-98; 90-28, eff. 1-1-98; 90-512,
28 eff. 8-22-97; 90-590, eff. 1-1-99; 90-608, eff. 6-30-98;
29 90-655, eff. 7-30-98; 91-357, eff. 7-29-99.)

30 (705 ILCS 405/2-29) (from Ch. 37, par. 802-29)

31 Sec. 2-29. Adoption; appointment of guardian with power
32 to consent.

33 (1) With leave of the court, a minor who is the subject

1 of an abuse, neglect, or dependency petition under this Act
2 may be the subject of a petition for adoption under the
3 Adoption Act.

4 (1.1) The parent or parents of a child in whose interest
5 a petition under Section 2-13 of this Act is pending may, in
6 the manner required by the Adoption Act, (a) surrender him or
7 her for adoption to an agency legally authorized or licensed
8 to place children for adoption, (b) consent to his or her
9 adoption, or (c) consent to his or her adoption by a
10 specified person or persons. Nothing in this Section requires
11 that the parent or parents execute the surrender, consent, or
12 consent to adoption by a specified person in open court.

13 (2) If a petition or motion alleges and the court finds
14 that it is in the best interest of the minor that parental
15 rights be terminated and the petition or motion requests that
16 a guardian of the person be appointed and authorized to
17 consent to the adoption of the minor, the court, with the
18 consent of the parents, if living, or after finding, based
19 upon clear and convincing evidence, that a parent is an unfit
20 person as defined in Section 1 of the Adoption Act, may
21 terminate parental rights and empower the guardian of the
22 person of the minor, in the order appointing him or her as
23 such guardian, to appear in court where any proceedings for
24 the adoption of the minor may at any time be pending and to
25 consent to the adoption. Such consent is sufficient to
26 authorize the court in the adoption proceedings to enter a
27 proper order or judgment of adoption without further notice
28 to, or consent by, the parents of the minor. An order so
29 empowering the guardian to consent to adoption deprives the
30 parents of the minor of all legal rights as respects the
31 minor and relieves them of all parental responsibility for
32 him or her, and frees the minor from all obligations of
33 maintenance and obedience to his or her natural parents. The
34 court may not deny a request for termination of parental

1 rights and appointment of a guardian with power to consent to
2 adoption for the sole reason that there is not a prospective
3 adoptive parent for the minor.

4 If the minor is over 14 years of age, the court may, in
5 its discretion, consider the wishes of the minor in
6 determining whether the best interests of the minor would be
7 promoted by the finding of the unfitness of a non-consenting
8 parent.

9 (2.1) Notice to a parent who has appeared or been served
10 with summons personally or by certified mail, and for whom an
11 order of default has been entered on the petition for
12 wardship and has not been set aside shall be provided in
13 accordance with Supreme Court Rule 11. Notice to a parent
14 who was served by publication and for whom an order of
15 default has been entered on the petition for wardship and has
16 not been set aside shall be provided in accordance with
17 Sections 2-15 and 2-16.

18 (3) Parental consent to the order terminating parental
19 rights and authorizing the guardian of the person to consent
20 to adoption of the minor must be in writing and signed in the
21 form provided in the Adoption Act, but no names of
22 petitioners for adoption need be included.

23 (4) A finding of the unfitness of a parent must be made
24 in compliance with the Adoption Act, without regard to the
25 likelihood that the child will be placed for adoption, and be
26 based upon clear and convincing evidence. Provisions of the
27 Adoption Act relating to minor parents and to mentally ill or
28 mentally deficient parents apply to proceedings under this
29 Section and any findings with respect to such parents shall
30 be based upon clear and convincing evidence.

31 (Source: P.A. 89-704, eff. 8-16-97 (changed from 1-1-98 by
32 P.A. 90-443); 90-28, eff. 1-1-98; 90-443, eff. 8-16-97;
33 90-608, eff. 6-30-98.)

1 (705 ILCS 405/3-30) (from Ch. 37, par. 803-30)

2 Sec. 3-30. Adoption; appointment of guardian with power
3 to consent. (1) A ward of the court under this Act, with the
4 consent of the court, may be the subject of a petition for
5 adoption under "An Act in relation to the adoption of
6 persons, and to repeal an Act therein named", approved July
7 17, 1959, as amended, or with like consent his or her parent
8 or parents may, in the manner required by such Act, surrender
9 him or her for adoption to an agency legally authorized or
10 licensed to place children for adoption.

11 (2) If the petition prays and the court finds that it is
12 in the best interests of the minor that a guardian of the
13 person be appointed and authorized to consent to the adoption
14 of the minor, the court with the consent of the parents, if
15 living, or after finding, based upon clear and convincing
16 evidence, that a non-consenting parent is an unfit person as
17 defined in Section 1 of "An Act in relation to the adoption
18 of persons, and to repeal an Act therein named", approved
19 July 17, 1959, as amended, may empower the guardian of the
20 person of the minor, in the order appointing him or her as
21 such guardian, to appear in court where any proceedings for
22 the adoption of the minor may at any time be pending and to
23 consent to the adoption. Such consent is sufficient to
24 authorize the court in the adoption proceedings to enter a
25 proper order or judgment of adoption without further notice
26 to, or consent by, the parents of the minor. An order so
27 empowering the guardian to consent to adoption terminates
28 parental rights, deprives the parents of the minor of all
29 legal rights as respects the minor and relieves them of all
30 parental responsibility for him or her, and frees the minor
31 from all obligations of maintenance and obedience to his or
32 her natural parents. The court may not deny a request for
33 termination of parental rights and appointment of a guardian
34 with power to consent to adoption for the sole reason that

1 there is not a prospective adoptive parent for the minor.

2 If the minor is over 14 years of age, the court may, in
3 its discretion, consider the wishes of the minor in
4 determining whether the best interests of the minor would be
5 promoted by the finding of the unfitness of a non-consenting
6 parent.

7 (3) Parental consent to the order authorizing the
8 guardian of the person to consent to adoption of the Minor
9 shall be given in open court whenever possible and otherwise
10 must be in writing and signed in the form provided in "An Act
11 in relation to the adoption of persons, and to repeal an Act
12 therein named", approved July 17, 1959, as amended, but no
13 names of petitioners for adoption need be included. A finding
14 of the unfitness of a nonconsenting parent must be made in
15 compliance with that Act and be based upon clear and
16 convincing evidence. Provisions of that Act relating to
17 minor parents and to mentally ill or mentally deficient
18 parents apply to proceedings under this Section and shall be
19 based upon clear and convincing evidence.

20 (Source: P.A. 85-601.)

21 (705 ILCS 405/4-27) (from Ch. 37, par. 804-27)

22 Sec. 4-27. Adoption; appointment of guardian with power
23 to consent. (1) A ward of the court under this Act, with the
24 consent of the court, may be the subject of a petition for
25 adoption under "An Act in relation to the adoption of
26 persons, and to repeal an Act therein named", approved July
27 17, 1959, as amended, or with like consent his or her parent
28 or parents may, in the manner required by such Act, surrender
29 him or her for adoption to an agency legally authorized or
30 licensed to place children for adoption.

31 (2) If the petition prays and the court finds that it is
32 in the best interests of the minor that a guardian of the
33 person be appointed and authorized to consent to the adoption

1 of the minor, the court with the consent of the parents, if
2 living, or after finding, based upon clear and convincing
3 evidence, that a non-consenting parent is an unfit person as
4 defined in Section 1 of "An Act in relation to the adoption
5 of persons, and to repeal an Act therein named", approved
6 July 17, 1959, as amended, may empower the guardian of the
7 person of the minor, in the order appointing him or her as
8 such guardian, to appear in court where any proceedings for
9 the adoption of the minor may at any time be pending and to
10 consent to the adoption. Such consent is sufficient to
11 authorize the court in the adoption proceedings to enter a
12 proper order or judgment of adoption without further notice
13 to, or consent by, the parents of the minor. An order so
14 empowering the guardian to consent to adoption terminates
15 parental rights, deprives the parents of the minor of all
16 legal rights as respects the minor and relieves them of all
17 parental responsibility for him or her, and frees the minor
18 from all obligations of maintenance and obedience to his or
19 her natural parents. The court may not deny a request for
20 termination of parental rights and appointment of a guardian
21 with power to consent to adoption for the sole reason that
22 there is not a prospective adoptive parent for the minor.

23 If the minor is over 14 years of age, the court may, in
24 its discretion, consider the wishes of the minor in
25 determining whether the best interests of the minor would be
26 promoted by the finding of the unfitness of a non-consenting
27 parent.

28 (3) Parental consent to the order authorizing the
29 guardian of the person to consent to adoption of the Minor
30 shall be given in open court whenever possible and otherwise
31 must be in writing and signed in the form provided in "An Act
32 in relation to the adoption of persons, and to repeal an Act
33 therein named", approved July 17, 1959, as amended, but no
34 names of petitioners for adoption need be included. A finding

1 of the unfitness of a nonconsenting parent must be made in
2 compliance with that Act and be based upon clear and
3 convincing evidence. Provisions of that Act relating to
4 minor parents and to mentally ill or mentally deficient
5 parents apply to proceedings under this Section and shall be
6 based upon clear and convincing evidence.

7 (Source: P.A. 85-601.)".